

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:ITA:B07

PLR-100057-16

Date:

June 06, 2016

Re:

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Dear :

This letter ruling responds to a letter dated December 23, 2015, submitted by P on behalf of itself and S1, S2, S3, S4, S5, S6, S7, S8, S9, S10, S11, S12, S13, S14, S15, S16, S17, S18, S19, S20, S21, S22, S23, S24, S25, S26, S27, S28, S29, S30, S31, S32, and S33 (hereinafter P, S1, S2, S3, S4, S5, S6, S7, S8, S9, S10, S11, S12, S13, S14, S15, S16, S17, S18, S19, S20, S21, S22, S23, S24, S25, S26, S27, S28, S29, S30, S31, S32, and S33 will be collectively referred to as Taxpayer), requesting the consent of the Commissioner of Internal Revenue to revoke Taxpayer's election not to deduct the additional first year depreciation provided by § 168(k) of the Internal Revenue Code for all classes of qualified property placed in service by Taxpayer during the taxable year ended A (the "B taxable year").

All references in this letter ruling to § 168(k) are treated as a reference to § 168(k) as in effect on the day before the date of the enactment of the Protecting Americans from Tax Hikes Act of 2015 (PATH Act), enacted as part of the Consolidated Appropriations Act, 2016, Division Q, Pub. L. 114-113, 129 Stat. 2242 (December 18, 2015).

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer files a consolidated federal income tax return on a calendar year basis. Taxpayer's overall method of accounting is the accrual method.

Taxpayer is primarily engaged in the business of extracting, processing, and marketing steam and metallurgical coal from surface and deep mines. During the B taxable year, Taxpayer placed in service qualified property (as defined in § 168(k)(2) before the application of § 168(k)(2)(D)(iii)). The qualified property is 5-year and 7-year property, which also is round 4 extension property (as defined in § 168(k)(4)(K)(iii) and in section 4.01 of Rev. Proc. 2015-48, 2015-40 I.R.B. 469).

Taxpayer's tax department prepared its consolidated federal income tax return for the B taxable year. On its timely filed consolidated federal income tax return for the B taxable year, Taxpayer made (i) an election under § 168(k)(2)(D)(iii) not to claim the 50-percent additional first year depreciation deduction for all classes of qualified property placed in service during the B taxable year, and (ii) an election to apply § 168(k)(4) for round 4 extension property. Taxpayer's tax department was not aware of the ordering rules for applying elections under § 168(k), as provided by section 4.04 of Rev. Proc. 2008-65, 2008-44 I.R.B. 1082, which was issued before the B taxable year.

RULING REQUESTED

Taxpayer requests consent to revoke its election not to deduct any additional first year depreciation for all classes of qualified property placed in service during the taxable year ended A.

LAW AND ANALYSIS

Section 168(k)(1) provides a 50-percent additional first year depreciation deduction for the placed-in-service year for qualified property (i) acquired by a taxpayer after December 31, 2007, and before September 9, 2010, or acquired by a taxpayer generally after December 31, 2011, and (ii) placed in service by the taxpayer before September 9, 2010, or generally after December 31, 2011, and before January 1, 2015.

Section 168(k)(2)(D)(iii) provides that a taxpayer may elect not to deduct the additional first year depreciation for any class of property placed in service during the taxable year. The term "class of property" is defined in § 1.168(k)-1(e)(2) of the Income Tax Regulations as meaning, in general, each class of property described in § 168(e) (for example, 5-year property). See section 5.01 of Rev. Proc. 2008-54, 2008-2 C.B. 722 (rules similar to the rules in § 1.168(k)-1 for "qualified property" or for "30-percent additional first year depreciation deduction" apply for purposes of § 168(k) as currently in effect).

Section 1.168(k)-1(e)(7)(i) provides that an election not to deduct the additional first year depreciation for a class of property that is qualified property, once made, may be revoked only with the written consent of the Commissioner of Internal Revenue. To seek the Commissioner's consent, the taxpayer must submit a request for a letter ruling.

CONCLUSION

Based solely on the facts and representations submitted, we conclude that a revocation of Taxpayer's election not to deduct any additional first year depreciation under § 168(k)(1) for all classes of qualified property placed in service by Taxpayer in the taxable year ended A, is permitted under § 1.168(k)-1(e)(7)(i). Accordingly, Taxpayer is granted 60 calendar days from the date of this letter to revoke its election

not to deduct any additional first year depreciation for all classes of qualified property placed in service by Taxpayer in the taxable year ended on A. The revocation must be made in a written statement filed with Taxpayer's amended consolidated federal income tax return for the taxable year ended on A. In addition, a copy of this letter must be attached to such amended return. A copy is enclosed for that purpose.

Except as specifically ruled upon above, no opinion is expressed or implied concerning the tax consequences of the facts described above under any other provisions of the Code (including other subsections of § 168). Specifically, no opinion is expressed or implied on (1) whether any item of depreciable property placed in service by Taxpayer in the taxable year ended on A, is eligible for the additional first year depreciation deduction under § 168(k)(1) or is round 4 extension property for purposes of § 168(k)(4), or (2) whether Taxpayer's determination of the refundable tax credits under § 168(k)(4) is proper.

This letter ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the power of attorney, we are sending a copy of this letter to Taxpayer's authorized representatives. We are also sending a copy of this letter to the appropriate operating division director.

Sincerely,

Kathleen Reed

Kathleen Reed
Chief, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosures (2)
Copy of this letter
Copy for section 6110 purposes